IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTIETH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION NO : 21437 of 1994

Between:

P.M. Reddy S/o. P. Ram Reddy
of C.R.P.F. Dett HQ. Bokajam (Assam)

having No. 881137356, residing at Gollapalle Village,
Tirupati Rural Mandal, Chittoor District.

..... PETITIONER

AND

1 The Office of the Commandant,
14 BN CRPF. Dett HQ. Bokajam, Assam.
2 The Additional Deputy Inspector General of Police,
CCII, CRPF., Ajmeer (Rajasthan).
3 The Directorate General, Pay and Accounts Office,
CRPF, Block No.1, CGO Complex,
Lodhi Road, New Delhi.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more preferably writ of Mandamus declaring that the impugned office order No. P.III-1/94 EC.I dated 27-4-1994 purporting to invalidate and discharge the petitioner on untenable medical grounds and deny his legitimate pensions etc., on the file of the 1st respondent as bad, illegal, arbitrary, unconstitutional, contrary to the Rules of CRPf and unsustainable and further be pleased to direct the respondents to grant the petitioner all the benefits such as monthly pension, and D.A.etc., attached to it from time to time insurance, gratuity, Provident Fund etc., as may be entitled to under the specific provisions of Kalyankari Yojana (Welfare Scheme of Central Reserve Police Force) or under any other provisions related to such services with effect from the date of his discharge on 15-4-1994.

Counsel for the Petitioner: MR.G.ALLABAKASH

Counsel for the Respondents: MR.A.RAJASHEKAR REDDY, SC FOR CG.

The Court made the following ORDER:

ORDER:

This writ petition is filed seeking a writ of *mandamus* declaring the impugned order No.P.III-1/94 EC.I dated 27.04.1994, as arbitrary and illegal with a consequential direction to the respondents to grant all benefits to him such as, monthly pension, D.A, insurance, gratuity, and Provident Fund etc., as per his entitlement under the provisions of 'Kalyankari Yojana' (Welfare Scheme for Central Reserve Police Force).

The case of the petitioner is that he was appointed as a Constable (Jawan) in Central Reserve Police Force (for short 'CRPF') w.e.f 26.08.1988. During his tenure as CRPF Jawan he had to discharge duties assigned to him from time to time, such as, security job in the risky vulnerable outposts/check posts, night vigilance duties, along with patrolling/search parties of CRPF during the peak period of the Terrorist and Extremist activities in Punjab, and participation in the deadly encounters with the Punjab Terrorists and out-lawed extremists, protection of Government properties, different places of worship, vital Government installations etc. These are all risky jobs one has to attend to them with a sense of dedication and sacrifice in defence of the sovereignty of the Nation. He had many times had to escape from the clutches of death. On 09.05.1991 at about
7.30 P.M., the company was suddenly ordered to rush immediately to a dangerous spot from where the sounds of bomb explosions emanated. The petitioner and other Jawans of the company picked up weapons and rushed to the standing CRPF vehicles. While doing so, in the melee, unfortunately, the petitioner fell into the deep ditch, thereby his right leg was severely injured. As a result of which, he was forced to be left behind, therefore, a Court of Inquiry was instituted to assess and analyse the situation. Resulting the disability caused to the petitioner, the Court of Inquiry, in its report, held that the petitioner should be continued on rolls, after making fit by giving necessary medical treatment and therapies. While so, one day, during routine P.T. exercises, since he was unable to support himself due to stress and strain of the impairment of right leg in the aforesaid accident, he was sent for medical examination and for expert opinion at New Delhi. The Board of Medical Specialists, on 15.11.1993, examined the petitioner and declared that he is unfit to hold the post

of Jawan.

Under those circumstances, the petitioner was issued with a show cause notice dated 08.12.1993. Responding to the said show cause notice, the petitioner made a representation dated 18.12.1993 requesting for a reasonable and proper second opinion. Secondly, on 12.09.1994, he was granted one-month time to submit explanation. Since he has not submitted the explanation within the time granted, the authorities have passed the order of discharge on 27.04.1994, on medical grounds, basing on the report of the Medical Board. Further, he was also asked to submit appeal before the competent authority. But, he did not do so and filed the present writ petition, *inter alia,* stating that the order of discharge passed by the authorities is contrary to the medical board's report and that he was not paid pensional and other benefits due to him.

On behalf of the respondents, a detailed counter-affidavit has been filed disputing and denying the allegations made by the petitioner. It is asserted that only in view of the fact that the petitioner did not submit a report from the District Medical Officer and further in view of the opinion expressed by the Medical Board at New Delhi, the service of the petitioner was discharged since he was medically unfit. Insofar as the payment of other benefits are concerned, it is submitted that in the meantime Court of Inquiry was ordered on 07.07.1992, to enquire into the circumstances under which the petitioner sustained injury. Later, the Commandant passed final orders basing on the recommendation of the Court of Inquiry stating that since the individual sustained injury while on *bona fide* Government duty, he will be entitled for all the benefits from Government, as per rules, if the said injury develops into any disability or leads to complications in future. Further it is also asserted that he would have been given all the benefits of invalidation pension, if the reason for Medical invalidation was attributable to the injury, he sustained, on 09.05.1991, and the complication, was a result thereof. But the petitioner was invalidated out purely on the basis of the opinion of the psychiatrists as he was suffering from "Conversion Disorder", which had nothing to do with the injury he sustained, as it was not due to subsequent development, as a result of the said injury, he sustained on 09.05.1991.

Heard both sides.

The learned counsel appearing for the petitioner drawn attention of this Court to the 'Kalyankari Yojana' (Welfare Scheme for Central Reserve Police Force), which

reads as under:

"1. Pensionary and other benefits (L.P.A.):

All those who die in the encounters of Terrorist and extremists, if married, their widows or if unmarried, their parents are entitled for L.P.A.

a. For widows: on the death of a CRP she is entitled for relief of Basic Pay + allowances till their death or till they are remarried;

b. After re-marriage she is entitled for ordinary pension.

2. … …. …

3. Injured CRPs:- For the permanently disabled persons on account of injury and discharged from service, they are entitled for pension depending on the percentage disability with a maximum sum of Rs.1000/- per month and other allowances such as D.A. etc., depending on the cost of living index as may be allowed from time to time, even if such an injured and disabled CRP Jawan did not serve for a minimum of 10 years."

He also submitted that the petitioner is entitled for pension and other benefits like gratuity, insurance, PF even if he is medically disabled on any ground mentioned above.

On the other hand, the learned counsel appearing for the respondents – Sri S.S.Varma submits that unless and until it is proved that the permanent disability suffered by the petitioner on account of injury that was caused while he was discharging his services, he is not entitled for any pension etc. He further submits that in the counter-affidavit itself they have made it clear that the petitioner was suffering from conversion disorder, which is nothing to do with the injury suffered by him on 09.05.1991. Therefore, the petitioner is not entitled for the benefits of 'Kalyankari Yojana' (Welfare Scheme for Central Reserve Police Force) since the said scheme contemplates to the persons who suffers the permanent disability on account of the injury and which resulted while discharging of duties and not otherwise.

The learned counsel for the petitioner submits that he made several representations to the respondents in this regard and no specific reasons were assigned for

discharge and even he was not allowed to submit a report from the District Headquarters Hospital as required by them and no formal notice was given to him.

These are all the questions and facts, which cannot be gone into in this petition since the petitioner asserted that he suffered the injury during the course of legitimate duties on 09.05.1991 which resulted in a serious setback and not for stress and strain. This fact is not seriously disputed even in the counter, and on the other hand the learned counsel for the petitioner asserts that even at the earliest point of time his case was considered by the Medical Board and he was allowed to continue in the job and the very same injury resulted in the permanent disability due to stress and strain during the training period.

Under these circumstances, the respondent-authorities are directed to reconsider the case of the petitioner as to whether the petitioner suffered the disability on account of the accident suffered by him on 09.05.1991 or otherwise and take appropriate decision as to payment of pension and other benefits under the 'Kalyankari Yojana' (Welfare Scheme for Central Reserve Police Force) and pass appropriate orders in accordance with law, within a period of four months, from the date of receipt of a copy of this order.

The writ petition is accordingly disposed of. No costs.

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C.V. Ramulu, J

Date: 20.01.2005

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To

1 The Office of the Commandant,
14 BN CRPF. Dett HQ. Bokajam, Assam.
2 The Additional Deputy Inspector General of Police,
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